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To: Microsoft ATR
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Subject: Problems with the Proposed Final Judgement

[Submitted by email to microsoft.atr@usdoj.gov]

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I appreciate the chance to write to you regarding the proposed final judgment in US v. Microsoft, currently before the public for comment.

There are many serious problems with the proposed final judgment, which by itself is insufficient to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future' (p.99 of the Court of Appeals ruling). To save space, I shall focus on only one issue here, the disclosure of undocumented interfaces to promote competition on the desktop.

The parties have agreed that Microsoft must disclose the details of their application programming interfaces (API) so that software authors can write new "middleware" that works correctly alongside Microsoft software on the desktop. However, Section III.D of the proposed judgment places arbitrary and undue restrictions on the recipients of this information. For example, they must be commercial concerns, and specific kinds of commercial concerns at that: ISVs, IHVs, IAPs, ICPs, or OEMs. They would be unable to use the APIs to reduce Microsoft's monopoly power in innovative ways that exceed the extremely limited technical scope of the Judgment (for example, by promoting the ability of endusers to run Microsoft applications atop non-Microsoft operating systems).

To constitute an effective remedy to monopoly, a better settlement would require Microsoft to simply open the Windows APIs (though not their proprietary source code that implements those interfaces) as well as their application file formats (though not their proprietary source code that reads and writes those formats) for the unrestricted inspection of the public at large.

Opening up more APIs to the public would have been the least unpleasant and most direct means to open up the Windows desktop for competition, by

lowering the artificial barriers to entry for competing middleware applications and operating systems (including those written by individuals, not-for-profits, and for-profit companies not currently covered by Section III.D).

Thank you for your time.

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